

SPECIAL REPORT

STATUS OF THE RIVER OTTER (Lutra canadensis)
IN TEXAS

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PURPOSE OF THE REPORT

This report is a compilation of status and distribution information on the river otter (Lutra canadensis) in Texas. It is intended to provide information necessary to meet federal requirements for approval of national and international commerce in otter parts and products from Texas under circumstances where sustained yield harvest or other lethal control of otters is biologically justified.

HISTORICAL BACKGROUND

Schmidly (1984:45) stated that historically, otters ranged throughout eastern Texas and along the Red River drainage into the Panhandle as well as along the Brazos and Colorado river watersheds into central Texas. Today their range is limited to the eastern quarter of the State in the Pineywoods, Post Oak Savannah, and Gulf Prairies and Marshes ecological regions (Fig. 1).

Bailey (1905) indicated the river otter was common in East Texas, especially in the Big Thicket area of Liberty and Hardin Counties. Reports were also received of otters at Mobeetie, along the Red River at Texarkana, along the Neches and San Jacinto Rivers near Beaumont and Conroe, from Palacio Creek, Matagorda County, and on the Colorado River near Austin. Seton (1926) also referred to a specimen being taken from Colorado County, Texas. Goldman (1935) gave the distribution of the Texas otter as the lower Mississippi River Valley in Louisiana and West in the Gulf Coast region at least to Bay City, Matagorda County, Texas with the type specimen used to describe the new subspecies being collected 20 miles west of Angleton, Brazoria County,

Texas. Frye and Lay (1942) stated that otter were found only in the eastern half of the state. Greatly reduced by overhunting and overtrapping, otter occurred only in certain scattered and isolated districts in its' former range, most of them on or near the Neches River. During the period 1938 to 1942 it increased in numbers due to legal protection and low value of the pelt. Bailey (1905) reported that otters were not present in the Devils and Pecos Rivers and the lower Rio Grande drainage. However, in 1935, Bailey indicated the otter was recorded from the upper Rio Grande and the Canadian River in northeastern New Mexico. Hall and Kelson (1959) showed the subspecies (L. c. texensis) distribution from East Texas and along the Red River drainage into the Panhandle as well as along the Brazos and Colorado River water sheds. Based on known county records, Davis (1974) recorded their distribution as being restricted to the eastern quarter of the state and as far south as Victoria County. There are no records of otters ever occurring in the Red River and Canadian River watersheds in the Panhandle. Bailey (1905) and Davis (1974) indicated that otters were generally found in the marshes, freshwater swamps, and the permanent streams and tributaries of the eastern section of Texas. Peterson (1946) reported that otters occurred in Brazos County until about 1932.

CURRENT STATUS

Distribution and Habitat:

A five-year river otter study initiated by Texas Parks and Wildlife Department (TPWD) in January 1978, was designed to develop information on the status and distribution as well as effects of trapping on the otter population. During this study river otter were recorded in each of three ecological regions: Pineywoods, Post Oak Savannah and Gulf Prairies and Marshes.

The highest density of inland otter occurred in the Pineywoods region with greatest incidence of sign being located in the Sabine and Angelina-Neches River drainages. This area is characterized by pine and mixed pine-hardwood upland with numerous creeks, bayous and large reservoirs with bottomland hardwood overstory vegetation. Water quality varied from clear and fast flowing to turbid and slow moving. Soils are characteristically undulating, acid, and range from deep sandy loams to heavy clay types. Neither water quality nor soil type seemed to influence the presence or absence of otter use. Otter were frequently found to utilize intermittent streams and water bodies during the study period; probably in search of crayfish and other preferred food items.

River otter density and distribution appear to decrease from that area north of Toledo Bend and Sam Rayburn reservoirs on to the Red River in the Pineywoods habitat type.

River otter were also recorded on the eastern most fringe of the Post Oak Savannah including an area encompassing the Navasota River and Yegua Creek watershed where otter presence was prominent. The Post Oak Savannah is an area of mixed oak-hickory and deciduous forest and more open midgrass prairie. Topography varies from rolling to hilly and upland soils are acid sandy loams or sands. Bottomlands are light colored, acid ranging from sandy loams to clays. Much of the Post Oak Savannah has been converted to improved pastureland.

Otter presence recorded for the Post Oak Region suggests a westward encroachment of the species into this ecotype. The Navasota River bottom and Yegua Creek exhibit a rather unique ecotone between the Piney woods and the Post Oak Savannah and may not typify habitat for either ecological region. Whether or not otter will continue their westward expansion or have reached the limits of their preferred habitat at this point is purely speculative.

The coastal river otter population is apparently restricted to that area from eastern Galveston county N.E. to the Sabine River in Orange county. This area is characterized by deep fresh to brackish marshlands with numerous levees, reservoirs and other water control structures. Soils are acid sands, sandy loams and clays. Dominant vegetation includes several species of cordgrass (Spartina), bulrush (Scirpus) cattail (Typha latifolia) and phragmites (Phragmites communis). Otter appear to thrive in this deep, relatively fresh to brackish water marsh habitat.

South of eastern Galveston County the marshlands become less extensive and more saline in nature. Plant communities change in diversity and levees and

water control structures are less numerous. River otter were not reported or recorded in the coastal marsh south of the Trinity River System during this study. Otter were reported, and reports verified for Brazoria County. However, these otter occupy an area of extensive deciduous forest with numerous streams, bayous and reservoirs, not the coastal marshlands (Boone, 1983).

Foy (1984) studies otters in the coastal marshes of the J. D. Murphree Wildlife Management Area in Jefferson County. Eleven otters were captured on this area and radio transmitters were surgically implanted so their movements could be monitored. Foy found that otter home ranges averaged 337 ha (833 ac), but activity centers averaged only 86 ha (212 ac). These values are lower than those reported from other studies and probably reflect the plentiful and constant food supply in the coastal marsh. Otters did not make extensive long-distance movements away from the Murphree Area. The average 24-hour movement was only 3.5 km (2.2 mi), and the maximum movement recorded was 7.3 km (4.5 mi). Otters did not show strong preference for individual habitat components within their home range. Borrow ditches and sloughs were most preferred and bayous were last preferred. Most wetland habitat components were used in proportion to their availability.

Densities:

Any animal as secretive as the otter is difficult to census; and accordingly, any density figures are estimates at best (Brownlee, 1977).

Melquist and Hornocker (1979a) suggested using a combination of capture data, visual observations of unmarked animals, and otter sign to estimate populations. To calculate otter density they divided population estimates into the amount of suitable habitat.

Current information shows that densities are variable but numbers are increasing. Lay (Pers. comm., 1977) indicated otters seemed more plentiful than in earlier years, and the increased number of freshwater impoundments had created additional habitat suitable for the species. Boone (1977) reported probably densities of 6 per square mile in the improved coastal marshes, but in the unimproved marshes densities were less than this figure. Foy (1984) estimated the maximum otter densities on upper Texas coastal marshes at 1 otter per 70.6 hectares (3.7 otters/sq mi). O'Neil (1975) indicated that inland otter densities vary from 1 otter per 8 square miles to 1 otter per 40 square miles. Analysis of TPWD annual fur harvest estimates for the 1976-77 and 1987-88 fur seasons indicated a 17.6% increase in the number of otters harvested. Utilizing O'Neil's (1975) most conservative inland otter density value of 1 otter/40 sq. mil, Brownlee's (1977) most conservative coastal otter density value of 1 otter/1 sq. mi. and a 17.6% estimated increase in the population, 1987 otter density estimates were calculated and compared to Brownlee's (1977) Texas river drainage basin estimates (Table 1).

MANAGEMENT ACTIONS

Population Monitoring:

TPWD personnel conducted field surveys annually from 1978-1982 to develop otter population information on a county basis. Rivers, creeks, streams and bayous were checked at established bridge crossings and culverts. Incidence of tracks and additional signs were recorded on prescribed data forms. Bridge crossings were chosen as recording stations because of their accessibility as well as the frequent use of such man-made disturbed areas by riparian fur-bearers. These sites appear to attract many species, possibly out of curiosity since a variety of items are often discarded under bridges. These locations also offer fur-bearers good travel lanes and feeding area. Animal sign is preserved under bridges, often for an extended period of time.

Signs normally destroyed by the elements can often still be read weeks, even months after the animal has passed. However, periodic heavy rains which create flooded conditions destroy animal sign at these locations.

During the course of this study, 75 Texas counties were surveyed and otter presence was recorded in 33 (44 percent) (Figure 2). A total of 921 bridge crossings were examined, and 87 (9.4 percent) were reported as having otter sign.

In addition TPWD personnel contacted local trappers, fur dealers, and other knowledgeable persons throughout East Texas to gain status information

relative to both inland and coastal otter populations. Interviews with trappers and fur buyers in the southeastern region of the State indicated a steadily increasing otter population (Boone, 1983).

Information derived from the annual hunter/trapper mail-out survey (W-108-R: Evaluation of Annual Fur Harvest, Job No. 2) supports this hypothesis (Table 2).

The conclusion in May 1984 of a cooperative research contract initiated and conducted with Texas A&M University on the J.D. Murphree Wildlife Management Area provided a radio telemetry study of otter movements and habitat utilization in coastal marsh environments. Among the results included were the indication of a stable well-established otter population which is likely at or near maximum density (Attachment 1).

Controlled Harvest Practices:

Once common throughout Northeast and Southeast Texas, the river otter began to disappear about 1920. Though otters could still be found in most areas, populations were declining, and in many areas had virtually disappeared in trapper catches (Siegler, 1939). This disappearance can be traced by reviewing otter take in the United States. Seton (1926) reported the catch for the period 1821 to 1891 averaged about 17,000 annually. However, Henderson and Craig (1932) reported the otter take in North America for the year 1923-24 was 30,000 pelts. The increase in numbers sold during the 1920's also marks the initiation of the otter population decline in Texas. The otter

season was closed in most Texas counties from 1927 through 1945, and in 1945 a five-year statewide closure was passed by the legislature.

With the reopening of the season in 1950, trapping interest was declining as reflected by license sales. The number of licensed trappers declined from 11,979 during the 1950-51 season to a low of 2,016 trappers by 1968 (Brownlee, 1977). Following the 1971-72 season when only 2,440 trapper licenses were sold, numbers of licensed trappers increased to a high of 46,245 trappers during the 1979-80 season (Table 3).

Beginning with the 1980-81 season and continuing through 1987-88, license sales have averaged $\pm 31,000$ with only minor variations possibly due to fluctuating fur prices (Table 4).

Little data are available on the annual harvest of river otters by fur trappers for the years preceding the 1972-73 fur season, but it is doubtful that the Texas harvest has increased significantly as a result of price increases. Henderson and Craig (1932) reported that otter prices have remained fairly stable, with pelt prices in 1908 being \$10 to \$20, in 1912 \$30 to \$40, and in 1923-24 the average price in Canada being \$30.70. As shown in Table 5, the price rise has not been as significant, as reported but has been relatively stable when compared to the prices paid for other fur-bearing animals. Therefore, it would appear that the otter take is a result of pressure on other fur-bearers, particularly raccoons, since there is little evidence that trappers are actively seeking only otters during the fur season. Information to date, including TPWD's 1978-82 study and the annual trapper survey, does not indicate otter populations are being reduced by

trapping activity since most of the current data shows the otters increasing in numbers.

Fur Laws:

Texas has long been concerned with the otter population as shown by the closure of the otter season from 1927 to 1950. Under Chapter 71, Parks and Wildlife Code, TPWD has the authority to regulate the take of fur-bearers, including otters throughout the state. The river otter, as a fur-bearing animal can only be taken for pelts during the period of December 1 to January 31. Additionally, in order to take or possess a live fur-bearing animal, a person must acquire a fur-bearing animal propagation license (Attachment 2). Further restrictions on the legal taking of otter include prohibiting the use of firearms (Attachment 3). As shown in attachment 4, proposed language has been drafted for implementation of tagging program and CITES Export authorization.

Habitat Maintenance/Improvement:

Evidence derived from the 1978-82 river otter surveys indicated that this species has possibly reestablished itself in all its remaining suitable coastal habitat. Northern and western expansion of the species is expected to continue until remaining quality range is occupied. As suggested by numerous investigators, the reestablishment and abundance of beaver (Castor canadensis) in much of their former range, has greatly enhanced the ability of otter to make a strong recovery. Habitat diversity and productivity created by beaver activity along with human-induced changes (impoundments, canals, levees,

reservoirs, etc.) have provided ideal conditions for the otter in Texas (Boone, 1983).

The continued creation of impounded water projects by federal, state and private agencies in accord with continued conservative harvest practices monitored by TPWD could conceivably enable the river otter to reoccupy most population produced by disease or habitat degradation.

POTENTIAL RESEARCH ACTIVITIES

Evaluation of Survey Method:

The bridge crossing survey used by TPWD during 1978-82 was a satisfactory technique for determining otter distribution if marsh or swamp habitats which lack bridges were not overlooked. Refinements in survey techniques are needed if bridge surveys are to ever provide reliable indications of statewide otter densities.

Foy (1984) suggested the following improvements for the bridge surveys.

The scent station technique using trackboards developed by Humphrey and Zinn (1982) would remove much of the substrate variability. The survey period should also be shortened, possibly to 2-3 days at a standard time each year. This would entail the assignment of more personnel so that all counties or watersheds of interest could be sampled at the same time. Counties which are being surveyed for the first time, or which are at the edge of the otter's

suspected range, should be sampled during late winter or early spring when sign is prevalent. This will maximize the probability of detecting a limited population. Consideration should be given to sampling counties with established populations during the summer and fall when otter activity, home range size, and overlap are at a minimum. This would minimize the frequency of multiple tallies of the same animal. However, the resulting number of observations may be too low for analysis unless a prohibitively large number of scent stations is used."

Evaluation of Population Status:

Exploring an alternate method of evaluating population status utilizing a modeling, or life-equation, approach rather than harvest estimates, is suggested. Tabor and Wight (1977) indicated that a reduced harvest may not reflect a population change because factors other than density, such as fur prices, weather conditions or trapping success, could significantly influence the harvest size. They suggested a method for evaluating the balance between population recruitment and mortality. An exact balance produces a population that is constant in size, while an imbalance results in a population increase or decrease.

CONCLUSION

As stated by Melquist and Dronkert (1987) "Because river otter populations exhibit low fecundity levels, increased survival and long generation times, they cannot readily compensate for heavy losses. A harvest strategy for this type of furbearer should be age-specific to maximize the number of young

produced between harvests (Dixon 1981); however because this is impossible in otter management, harvest schedules must be conservative. Management decisions are often formulated under considerable uncertainty (Clark 1976), and frequently too little is known to accurately predict the effects of a harvest."

Estimated increases in population, in concert with estimated increases in harvest, indicate sustainable levels of harvest in accord with an apparently expanding otter population in Texas. Continued conservative harvest practices, close scrutiny of harvest levels and monitoring of population trends by TPWD personnel will ensure the continuing expansion and increase of the river otter population. A tagging program would assist TPWD personnel by providing more effective harvest monitoring, establishing the means for controlling harvests within specified limits and reducing the potential for illegal pelt transport to other states.

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Table 1. Estimated River Otter Population By Texas Drainage Basins in 1977 and 1988.

Drainage Basin	Square Miles ^{a/}	Estimated Densities	<u>Estimated Minimum Population</u>	
			1977	1988
Red River	1,000 ^{b/}	Unknown	Unknown	Unknown
Sulphur	3,558	1/40 square miles	89	105
Cypress	2,812	1/40 square miles	70	82
Sabine	7,426	1/40 square miles	186	219
Neches	10,011	1/40 square miles	250	294
Neches-Trinity Coastal	796	1/1 square miles	796	936
Trinity	17,969	1/40 square miles	449	528
Trinity-San Jacinto Coastal	247	1/1 square miles	247	291
San Jacinto	3,834	1/40 square miles	96	113
TOTALS:	47,653	1/21.8 square miles	2,183	2,568

^{a/} Size of drainage areas obtained from the Texas Water Development Board Publication. Continuing Water Resources Planning and Development for Texas Volume 2, May 1977.

^{b/} Estimated.

Table 2. Estimated Otter Harvest Derived from Responses to the Annual Mailout Survey of Trapper License Holders During the 1976-87 Fur seasons in Texas.

Year	Mean	2SE*
1976-77	151	138
1977-78	236	206
1978-79	Sample too small	
1979-80	Sample too small	
1980-81	Sample too small	
1981-82	585	370
1982-83	359	231
1983-84	770	527
1984-85	434	228
1985-86	594	507
1986-87	796	473
1987-88	855	584

*SE= Standard Error of the mean, 2SE = approximate 95% confidence limits above and below the mean estimate.

Table 3. Number of Trapper and Fur Dealer Licenses Sold in Texas^a, 1971-1987.

License ^b Year	Wholesale Fur Dealer	Retail Fur Buyer	Trapper ^c
1971-72	-	-	2,440
1972-73	34	106	4,855
1973-74	49	176	6,965
1974-75	59	221	9,637
1975-76	97	266	11,964
1976-77	160	436	24,628
1977-78	191	488	32,930
1978-79	252	464	38,617
1979-80	296	439	46,245
1980-81	267	354	37,233
1981-82	163	219	33,222
1982-83	150	197	33,164
1983-84	115	135	26,477
1984-85	98	125	28,471
1985-86	91	105	24,877
1986-87	77	130	32,596
1987-88	88	130	32,397

^a Based on total license sales.

^b Includes both resident and nonresident licenses in each category.

^c Although named Trapper's License, this license is required of anyone taking fur-bearing animals regardless of the legal method involved. The license is not limited to trapping.

Table 4. Average Price Paid for Texas Otter Furs and Estimated Total Value of Otter Harvest to Texas Trappers, (1975-1987).

License ^b Year	Average Price Paid Per Texas Otter Fur ^a	Estimated Total Value of Texas Otter Harvest ^b
1975-76	\$35.00	\$2,460
1976-77	40.00	9,600
1977-78	28.00	6,228
1978-79	40.00	-
1979-80	40.00	-
1980-81	28.00	-
1981-82	25.00	14,625
1982-83	17.00	6,103
1983-84	9.00	6,903
1984-85	18.00	7,812
1985-86	9.50	5,643
1986-87	18.00	14,328
1987-88	11.00	9,405

^a Tabled prices represent a statewide average of prices quoted by fur dealers for pelts of the average size and quality usually presented by furtakers to dealers.

^b Harvest value based upon mean harvest projection from hunter/trapper mail survey.

Table 5. Average Prices Paid for Texas Furs, 1979-1987.^a

Species	1979-80	1980-81	1981-82	1982-83	1983-84	1984-85	1985-86	1986-87	1987-88
Raccoon	\$20.00	\$11.00	\$14.50	\$13.50	\$12.25	\$14.50	\$10.50	\$14.25	\$10.00
Ringtail	5.75	7.25	8.00	3.25	2.50	6.50	3.00	4.00	3.50
Opossum	2.50	1.50	1.25	.50	.50	1.00	.75	.75	.60
Red Fox	45.00	17.00	35.00	27.00	28.50	25.00	13.50	20.25	15.50
Gray Fox	35.00	26.00	22.50	20.00	24.75	23.00	12.00	20.00	21.00
Kit Fox	-	-	-	-	7.50	-	3.50	6.25	8.00
Swift Fox	-	-	-	-	7.50	8.00	6.75	12.00	7.50
Coyote	15.75	19.50	13.00	13.25	6.00	8.00	5.00	9.75	6.75
Bobcat	65.00	65.00	55.00	38.75	40.00	65.00	45.25	66.00	61.50
Civet	2.50	4.25	3.00	2.00	2.00	1.50	2.00	2.50	1.50
Skunk	3.00	2.00	1.00	1.00	1.00	.75	1.25	1.50	1.75
Badger	6.25	5.25	2.00	-	2.75	3.00	4.50	3.50	3.00
Mink (Male)	14.00	12.00	16.00	11.00	9.50	12.00	8.00	12.25	18.00
(Female)	7.50	6.00	8.00	6.00	5.75	6.00	4.00	6.00	9.50
Otter	40.00	28.00	25.00	17.00	9.00	18.00	9.50	18.00	11.00
Nutria	8.75	8.75	4.00	1.75	1.25	4.00	1.75	1.50	1.75
Beaver	7.50	5.75	2.50	3.50	4.00	2.00	4.00	5.25	5.50
Muskrat	7.25	7.25	3.00	-	2.50	2.50	1.25	4.00	2.50

^a Tabled prices represent a statewide average of prices quoted by fur dealers for pelts of the average size and quality usually presented by furtakers to dealers.

Figure 1. Current and historical ranges of the river otter in Texas.

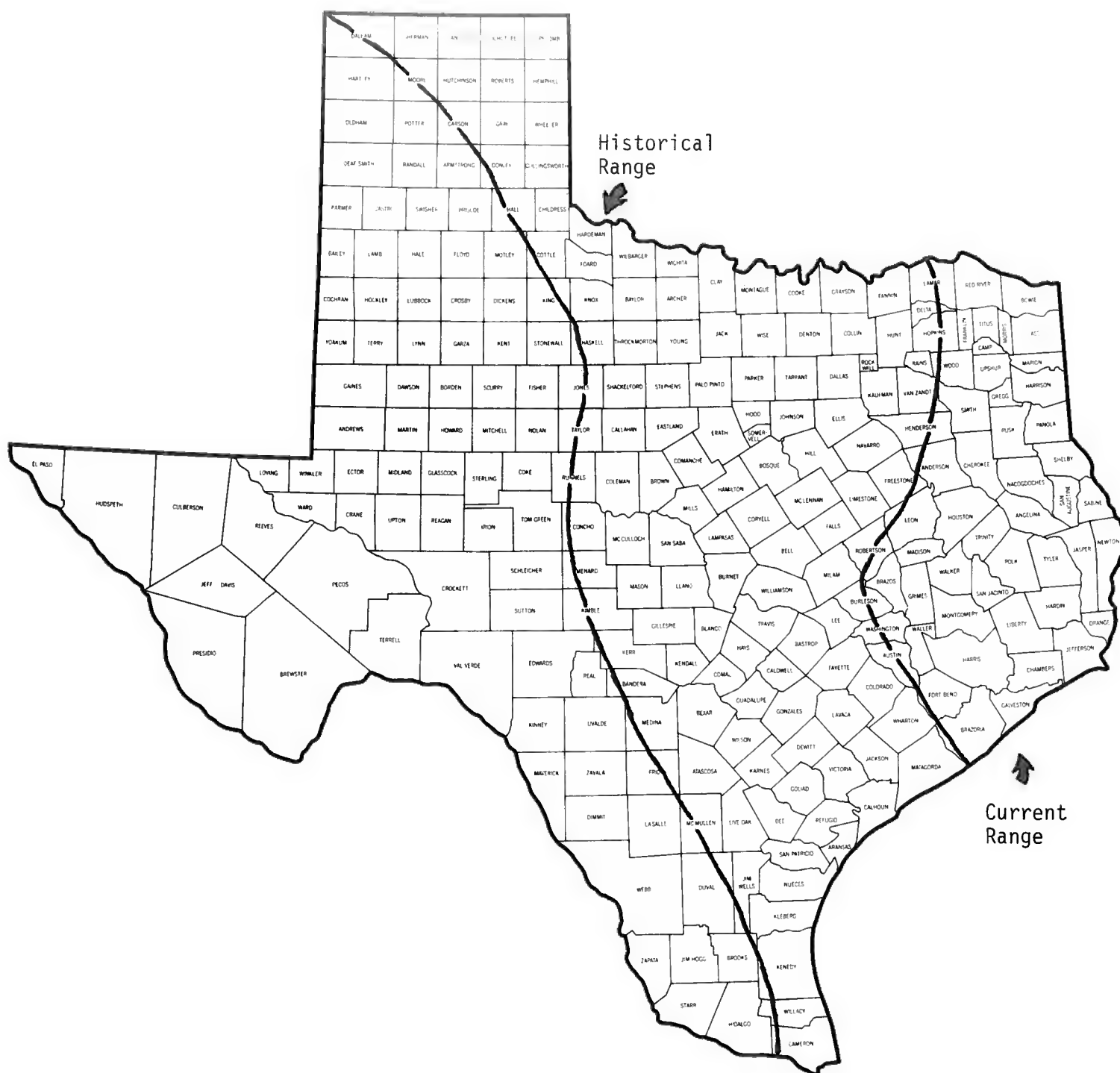


Figure 2. River otter distribution in Texas, March 1983.

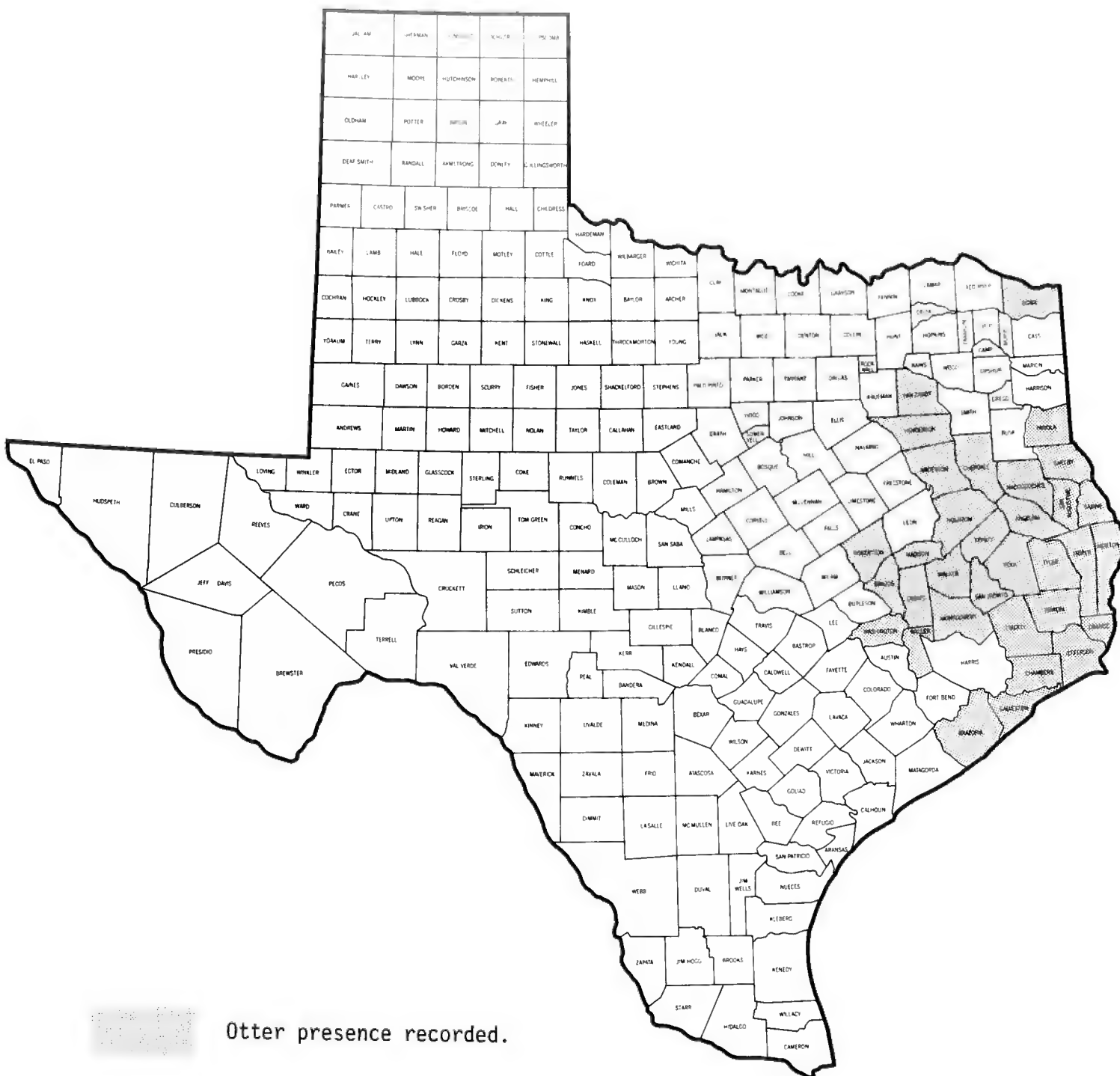
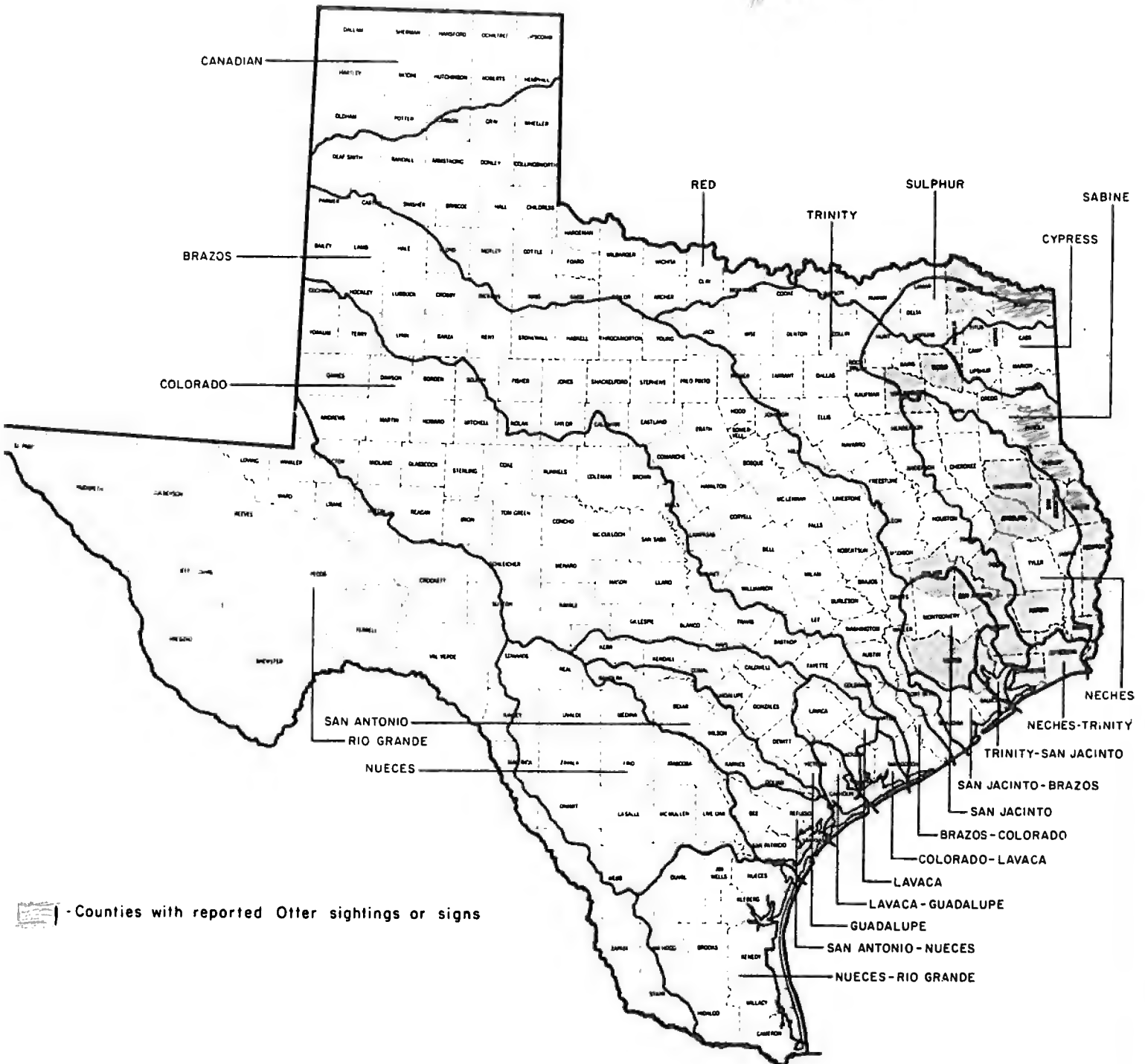


Figure 4

OTTER DISTRIBUTION BY DRAINAGE BASINS

*See Reference
to add to Fig 1/2*



- Counties with reported Otter sightings or signs

SEASONAL MOVEMENT, HOME RANGE, AND HABITAT USE
OF RIVER OTTER IN SOUTHEASTERN TEXAS

A Thesis

by

MICHAEL KERRY FOY

Submitted to the Graduate College of
Texas A&M University
in partial fulfillment of the requirements for the degree of
MASTER OF SCIENCE

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Major Subject: Wildlife and Fisheries Sciences

CONCLUSIONS

1. The Murphree Wildlife Management Area has a stable, well-established otter population which is likely at or near maximum density. A population best estimate of 47 yearling or older animals was calculated for the area, with an additional potential for producing 24 pups annually.
2. Male otter had a higher overall activity level than females, but no differences were found between adult and yearling age classes.
3. Otter activity is greatest during the winter season and during the morning crepuscular period. There was a significant increase in activity with decreasing temperature.
4. There was no difference between male and female home range size, unless an adult female that had an unusually large home range was excluded from the analysis. Males then had larger home ranges. Since there was no difference in the size of male or female activity centers in either case, this probably represents the longer straightline movements made by males and not a requirement for a larger resource base.
5. Otter home ranges averaged 337 ha, while activity centers averaged only 86 ha. These areas are considerably smaller than previously reported and may reflect the plentiful and constant food supply in the coastal marsh.
6. No significant differences could be shown in seasonal home range size. However consistent trends within independent sex and age

classes suggest that seasonal differences may exist. Mean home range size was greatest in spring and smallest in summer.

7. Otters did not make extensive long distance movements away from the Murphree Area. The average 24-hour movement was 3.5 km, while the greatest was 7 km. Like home range area, these are lower values than usually reported for river otter.
8. Males make longer maximum movements than females.
9. One yearling male dispersed during the study, starting in late March and establishing itself in marginal habitat by early May. It traveled a minimum straightline distance of 35 km, however this is considered a severe underestimate of the actual dispersal distance. It finally settled down 7 km from the Murphree Area.
10. River otter did not show any strong preference for individual habitat components within their home range. Borrow ditches and sloughs were most preferred and bayous were least preferred.
11. Otter sign was most common during the winter and spring, and became very scarce on the levees during the summer. This is attributed to seasonal changes in otter behavior and environmental conditions and not to changing otter densities or inland movements.

PARKS AND WILDLIFE CODE

SUBTITLE C. FUR-BEARING ANIMALS

CHAPTER 71. LICENSES AND REGULATIONS

Section

- 71.001. Definitions.
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- 71.012. Inspections.
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§ 71.001. Definitions

In this subtitle:

(1) "Fur-bearing animal" means wild beaver, otter, mink, ring-tailed cat, badger, skunk, raccoon, muskrat, opossum, fox, weasel, nutria, or civet cat.

(2) "Trapper" means a person who takes a fur-bearing animal or the pelt of a fur-bearing animal.

(3) "Retail fur buyer" means a person who purchases a fur-bearing animal or the pelt of a fur-bearing animal of this state from trappers only.

(4) "Wholesale fur dealer" means a person who purchases for himself or for another person a fur-bearing animal or the pelt of a fur-bearing

animal of this state from a trapper, a retail fur buyer, a fur-bearing animal propagator, or another wholesale fur dealer.

(5) "Resident" means a person who has resided in this state for more than six months immediately before an application for a license issued under this chapter is made.

(6) "Nonresident" means any person, other than a resident, applying for a license issued under this chapter.

(7) "Sale" includes barter and other transfers of ownership for consideration.

(8) "Take" means the act of snaring, trapping, shooting, killing, or capturing by any means and includes an attempt to take.

(9) "Carcass" means the body of a dead fur-bearing animal, with or without the hide attached.

(10) "Depredation" means the loss of or damage to agricultural crops, livestock, poultry, or personal property.

(11) "Pelt" means the untanned, green or dried hide or skin of a fur-bearing animal, whether or not the hide or skin is attached to the carcass.

(12) "Place of business" means a place where fur-bearing animals or their pelts are sold, received, transported, possessed, or purchased, and includes a vehicle used by a trapper, retail fur buyer, wholesale fur dealer, or fur-bearing animal propagator.

(13) "Fur-bearing animal propagator" means a person who takes or possesses a living fur-bearing animal and holds it for the purpose of propagation or sale.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1979, 66th Leg., p. 2047, ch. 801, § 1, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 2737, ch. 748, § 1, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 2886, ch. 491, § 3, eff. Aug. 29, 1983.

Sections 8 and 10 of Acts 1981, 67th Leg., ch. 748, revising this chapter, provide:

"Sec. 8. The following sections of the Parks and Wildlife Code, as amended, are not affected by this Act: Sections 81.404, 229.021, 334.041, and 350.021."

"Sec. 10. (a) A person who violates a provision of Chapter 71 or Chapter 72, Parks and Wildlife Code, as amended, before the effective date of this Act shall be prosecuted under the law as it existed on the day the violation occurred and that law is continued in effect for that purpose.

"(b) The fact that a person was convicted of a violation of a provision of Chapter 71 or 72, Parks and Wildlife Code, as amended, before the effective date of this Act does not preclude the use of that conviction for enhancing the punishment for an offense that was committed after the effective date of this Act."

§ 71.0011. Application

This chapter applies to fur-bearing animals in each county except those populations on the state's list of endangered fish and wildlife.

Acts 1981, 67th Leg., p. 2737, ch. 748, § 1, eff. Sept. 1, 1981.

§ 71.002. Proclamations

(a) The commission by proclamation may regulate the taking, possession, propagation, transportation, exportation, importation, sale, and offering for sale of fur-bearing animals, pelts, and carcasses as the commission considers necessary to manage fur-bearing animals or to protect human health or property.

(b) A proclamation of the commission under this chapter may also provide for:

- (1) permit application forms, fees, procedures, and reports;
- (2) hearing procedures;
- (3) the periods of time when it is lawful to take, possess, sell, purchase, or transport fur-bearing animals, pelts, and carcasses;
- (4) catch and possession limits for fur-bearing animals and pelts; and
- (5) the means, methods, and manner that are, and places in which it is, lawful to take or possess fur-bearing animals, pelts, or carcasses.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2737, ch. 748, § 1, eff. Sept. 1, 1981.

§ 71.003. Scientific Studies and Investigations

The department shall conduct scientific studies and investigations of fur-bearing animals as necessary to develop information on populations, distribution, habitat needs, and limiting factors, to acquire any other biological or ecological data, and to determine appropriate management policies for public safety.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2737, ch. 748, § 1, eff. Sept. 1, 1981.

§ 71.004. Prohibited Acts

(a) No person may take, sell, purchase, or possess a fur-bearing animal, pelt, or carcass in this state, except as provided by proclamation of the commission. This chapter does not prohibit a landowner or his agent from taking a fur-bearing animal causing depredation on that person's land. No person may possess a fur-bearing animal taken for depredation

purposes except as authorized by proclamation of the commission.

(b) No person may take a fur-bearing animal on any privately owned land or body of water unless the owner of the land or water, or the owner's agent, consents.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2737, ch. 748, § 1, eff. Sept. 1, 1981.

§ 71.005. Licenses Required

(a) No person may take a fur-bearing animal or a pelt in this state unless he has acquired and possesses a trapping license.

(b) No person may purchase or possess after purchase a pelt or carcass taken in this state unless he has acquired and possesses a retail fur buyer's or wholesale fur dealer's license.

(c) No person may take or possess a live fur-bearing animal for the purpose of propagation or sale unless he has acquired and possesses a fur-bearing animal propagation license.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2737, ch. 748, § 1, eff. Sept. 1, 1981.

§ 71.006. Purchases by Retail Fur Buyer

No retail fur buyer may purchase in this state a pelt or carcass except from a licensed trapper.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2737, ch. 748, § 1, eff. Sept. 1, 1981.

§ 71.007. Purchases by Wholesale Fur Dealer

No wholesale fur dealer may purchase in this state a pelt or carcass except from a licensed trapper, a licensed retail fur buyer, a fur-bearing animal propagator, or another licensed wholesale fur dealer.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2737, ch. 748, § 1, eff. Sept. 1, 1981.

§ 71.008. Issuance of Licenses

The licenses authorized by this chapter shall be of a form prescribed and issued by the department, or an authorized agent of the department, to applicants on the payment of the license fees.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2737, ch. 748, § 1, eff. Sept. 1, 1981.

§ 71.009

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§ 71.009. License Fees

The fee for a license authorized by this chapter is in the following amount or an amount set by the commission, whichever amount is more:

- (1) \$10.75 for a resident trapper's license;
- (2) \$200.75 for a nonresident trapper's license;
- (3) \$50.75 for a resident retail fur buyer's license;
- (4) \$200.75 for a nonresident retail fur buyer's license;
- (5) \$100.75 for a resident wholesale fur dealer's license;
- (6) \$400.75 for a nonresident wholesale fur dealer's license; and
- (7) \$50.75 for a fur-bearing animal propagation permit.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2737, ch. 748, § 1, eff. Sept. 1, 1981; Acts 1985, 69th Leg., ch. 267, art. 2, § 64, eff. Sept. 1, 1985.

§ 71.010. License Period

The license period for licenses issued under this chapter is September 1 of one year through August 31 of the following year, and a license is current and valid only for the license period for which it is issued.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2737, ch. 748, § 1, eff. Sept. 1, 1981.

§ 71.011. Possession and Display of Licenses

(a) A trapper shall carry the trapper's license on his person while taking or possessing a fur-bearing animal, pelt, or carcass.

(b) A wholesale fur dealer, a retail fur buyer, or a fur-bearing animal propagator shall display the required license at his place of business or while conducting business at a place other than his place of business.

(c) The failure to display a valid license on request by the department or an authorized agent of the department while taking, possessing, selling, offering for sale, or buying a fur-bearing animal, pelt, or carcass is a violation of this chapter. If on or before the trial of a person charged with a violation of this section, the person produces for the court or the prosecuting attorney the proper license

that was issued to the person and valid at the time of the offense, the court shall dismiss that charge.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2737, ch. 748, § 1, eff. Sept. 1, 1981.

§ 71.012. Inspections

The place of business of any fur-bearing animal propagator, wholesale fur dealer, or retail fur buyer and any vehicle being used by a fur-bearing animal propagator, wholesale fur dealer, or retail fur buyer for the collection or transportation of fur-bearing animals, carcasses, or pelts are subject to inspection without a warrant by a game warden or any other peace officer at any time.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2737, ch. 748, § 1, eff. Sept. 1, 1981.

§ 71.013. Fees of Issuing Agents

County clerks and other authorized agents of the department other than employees of the department may retain 75 cents of the fee for the issuance of a trapper's license, a retail fur buyer's license, or a wholesale fur dealer's license as a collection fee.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2737, ch. 748, § 1, eff. Sept. 1, 1981.

§ 71.014. Reports

The holder of a wholesale fur dealer's, retail fur buyer's, or fur-bearing animal propagation license shall submit reports to the department as required by proclamation of the commission.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1, 1975. Amended by Acts 1981, 67th Leg., p. 2737, ch. 748, § 1, eff. Sept. 1, 1981.

§ 71.015. Penalties

(a) Except as provided in another subsection of this section, a person who violates any provision of this chapter or proclamation under this chapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

(b) If it is shown at the trial of the defendant that he has been convicted once within the preceding 36 months of a violation of this chapter or a proclamation under this chapter, on conviction he shall be punished for a Class B Parks and Wildlife Code misdemeanor.

(c) If it is shown at the trial of the defendant that he has been convicted two or more times within the preceding 60 months of a violation of this chapter or a proclamation under this chapter, on conviction he

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shall be punished for a Class A Parks and Wildlife
Code misdemeanor.

Acts 1975, 64th Leg., p. 1405, ch. 545, § 1, eff. Sept. 1,
1975. Amended by Acts 1981, 67th Leg., p. 2737, ch. 748,
§ 1, eff. Sept. 1, 1981; Acts 1985, 69th Leg., ch. 267, art. 3,
§ 79, eff. Sept. 1, 1985.

STATEWIDE FUR-BEARING ANIMAL AND TRAPPING PROCLAMATION

1. Introduction.

The Texas Parks and Wildlife Commission in a regularly scheduled public hearing held June 12, 1986, adopted amendments with no changes to §§65.371, 65.376, 65.378, 65.380, 65.381, and 65.382 concerning furbearers as proposed in the March 28, 1986, issue of the Texas Register (11 TexReg 1559). The amendments, as adopted, complete the repeal of special county laws concerning fur-bearing animals as was provided for by Article I, Section 37 of Senate Bill 94 (Wildlife Conservation Act of 1983), 68th Texas Legislature. Additionally, the amendments established new requirements that fur-bearing animal propagators must meet in providing live fur-bearing animals with facilities that promote good health of the animals, thereby minimizing public health hazards. More stringent requirements are provided for holding live skunks which are of concern in transmission of rabies to humans.

2. Justification for the Rules.

Needs to improve public compliance with fur marketing restrictions, to facilitate transportation and handling of live furbearers, and to address public health considerations required that the commission adopt regulation changes.

3. How the Rules Will Function.

The amendments complete the repeal of special laws that were inconsistent with statewide fur-taking regulations, specify existing exceptions to fur-bearing animal regulations, establish specific facility requirements and annual inspection prior to licensing to be met by persons possessing live fur-bearing animals under a propagation license, require special department authorization to possess live skunks, specify documentation necessary to import, export, and release live fur-bearing animals, and clarify time limitations for possession and marketing of pelts. Special restrictions on taking fur-bearing animals in Angelina, Hardin, Jasper, Leon, Marion, Morris, Newton, Sabine, and Shelby counties are eliminated on the effective date of this regulation. The amendments provide for public use interests consistent with controls necessary to conserve fur-bearing animal populations, improve enforcement, and provide for public health relative to contact with fur-bearing animals.

4. Summary of Comments.

Comments by the public were presented to the Parks and Wildlife Commission as a narrative summary of two telephone calls. No comments were received via the Texas Register or letter. Comments concerned the propagation facility requirements, specifically the overlap with U.S. Department of Agriculture requirements to be met annually by people who sell live mammals. Suggestions also were made that simpler

requirements should apply to persons who possess live fur-bearers as pets only. Comments are available for public inspection at the Department's Headquarters Complex, 4200 Smith School Road, Austin, Texas 78744.

5. Names of Those Making Comments For and Against Rules.

Comments were received via telephone from Mr. Sonny Spears of Houston and Mr. Leonard Warren of Midland. Mr. Spears generally supported the proposal; Mr. Warren was against the annual examination of facilities prior to licensing. In the public hearing, there were no persons speaking directly for or against the amendments.

6. Reasons Why Agency Disagrees with Comments.

The Parks and Wildlife Commission disagrees with comments received because they were not consistent with the need to apply controls equitably among persons licensed to handle live furbearers. The commission must act to deal effectively with changing conditions to prevent depletion or waste of fur-bearing animals and to ensure public health.

7. Statutory Authority: Interpretation of How Provisions Authorize or Require the Rules.

The amendments are adopted under Texas Parks and Wildlife Code, Chapter 71, which authorizes the Parks and Wildlife Commission to regulate the taking, possession, propagation, transportation, exportation, importation, sale, and offering for sale of fur-bearing animals, pelts, and carcasses as necessary to manage the species or protect health or property.

§65.371. Application.

These sections apply to fur-bearing animals statewide, except Texas Parks and Wildlife Code, §81.404 (relating to contract removal of fur-bearing animals on management areas), Chapter 43, Subchapter C (relating to scientific permits), and sections 229.021, 334.041 and 350.021 (relating to the sale of certain live animals in Kaufman, Van Zandt and Wood counties) are not affected by this subchapter.

§65.372. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

Carcass - The body of a dead fur-bearing animal, with or without the hide attached, Texas Parks and Wildlife Code, §71.001(9).

Commission - The Texas Parks and Wildlife Commission.

Department - The Texas Parks and Wildlife Department or a specifically authorized employee of the department.

Depredation - The loss of or damage to agricultural crops, livestock, poultry, or personal property, Texas Parks and Wildlife Code, §71.001(10).

Fur-bearing animal - Wild beaver, otter, mink, ring-tailed cat, badger, skunk, raccoon, muskrat, opossum, fox, weasel, nutria, or civet cat, Texas Parks and Wildlife Code, §71.001(1).

Fur-bearing animal propagator - A person who takes or possesses a living fur-bearing animal and holds it for the purpose of propagation or sale, Texas Parks and Wildlife Code, §71.001(13).

Nonresident - Any person applying for a trapper's license other than a resident, Texas Parks and Wildlife Code, §71.001(6).

Nuisance - An offensive, annoying, or unpleasant situation, event or act involving fur-bearing animals that may negatively affect human health or safety.

Pelt - The untanned, green or dried hide or skin of a fur-bearing animal, whether or not the hide or skin is attached to the carcass, Texas Parks and Wildlife Code, §71.001(11).

Place of business - A place where fur-bearing animals or their pelts are sold, received, transported, possessed, or purchased, and includes a vehicle used by a trapper, retail fur buyer, wholesale fur dealer, or fur-bearing animal propagator, Texas Parks and Wildlife Code, §71.001(12).

Possess - The act of having control of a fur-bearing animal but does not include take.

Resident - A person who has resided in this state for more than six months immediately before an application for a license issued under Texas Parks and Wildlife Code, Chapter 71, is made, Texas Parks and Wildlife Code, §71.001(5).

Retail fur buyer - A person who purchases a fur-bearing animal or the pelt of a fur-bearing animal of this state from trappers only, Texas Parks and Wildlife Code, §71.001(3).

Sale - Includes barter and other transfers of ownership for consideration, Texas Parks and Wildlife Code, §71.001(7).

Take - The act of snaring, trapping, shooting, killing or capturing by any means and includes an attempt to take, Texas Parks and Wildlife Code, §71.001(8).

Trapper - A person who takes a fur-bearing animal or the pelt of a fur-bearing animal, Texas Parks and Wildlife Code, §71.001(2).

Wholesale fur dealer - A person who purchases for himself or for another person a fur-bearing animal or the pelt of a fur-bearing animal of this state from a trapper, retail fur buyer, a fur-bearing animal propagator, or another wholesale fur dealer, Texas Parks and Wildlife Code, §71.001(4).

§65.373. License Fees.

(a) The fees for licenses required for activities authorized by this subchapter are prescribed under the provisions of Texas Parks and Wildlife Code, Chapter 71, and are:

- (1) \$10.75 for a resident trapper's license;
- (2) \$200.75 for a nonresident trapper's license;

- (3) \$50.75 for a resident retail fur buyer's license;
- (4) \$200.75 for a nonresident retail fur buyer's license;
- (5) \$100.75 for a resident wholesale fur dealer's license;
- (6) \$400.75 for a nonresident wholesale fur dealer's license; and
- (7) \$50.75 for a fur-bearing animal propagation license.

§65.374-65.375. Reserved for future expansion.

§65.376. General Rules.

(a) Fur-bearing animals may be taken in any number at any time, except as otherwise restricted by this subchapter.

(b) This subchapter shall not prohibit a landowner or his agent from taking by any means a fur-bearing animal causing depredation or nuisance on that person's land or prohibit a person from transporting a suspected diseased fur-bearing animal to a public health facility.

(c) Except for nutria, fur-bearing animals or pelts, taken under subsection (a) or (b) of this section may not be retained or possessed by any one at any time except during the open season and possession periods as provided by this subchapter provided that depredating and nuisance live fur-bearing animals taken under subsection (b) of this section may be possessed only during transport for release under provisions of §65.382(c) of this title (relating to Importation and Release of Fur-Bearing Animals or Their Pelts).

(d) No person may take a fur-bearing animal on any privately-owned land or body of water without the consent of the owner of the land or water or the owner's agent.

(e) No person may take fur-bearing animals on statutory wildlife sanctuaries, on public roads and highways, or rights-of-way of public roads and highways, and in the state-owned riverbeds in Uvalde, Zavala, and Dimmit counties.

(f) Each fur-bearing animal or pelt taken or possessed in violation of this subchapter shall constitute a separate offense.

(g) This subchapter shall not prohibit personnel of the Texas Department of Health or local public health agencies from taking and possessing for analysis and disposal any fur-bearing animal posing a potential or known health hazard. All animals handled pursuant to this paragraph shall be accounted for in a report from the Department of Health by January 30 following the year of handling. The report shall include the number of individuals handled of each species, month and county of take, and category of clinical processing or diagnosis. More inclusive Department of Health reports may be substituted in the event they duplicate the information required by this subsection.

(h) This subchapter shall not apply to the Texas Animal Damage Control Program (U.S. Fish and Wildlife Service - Texas Rodent and Predatory Animal Control Service - Texas Animal Damage Control Association) in the fulfillment of their responsibility as mandated by state laws. All animals handled pursuant to this subsection

EMERGENCY AMENDMENT TO
FUR-BEARING ANIMAL AND TRAPPING PROCLAMATION

The Texas Parks and Wildlife Commission in a regularly scheduled public hearing adopted an emergency amendment to §65.376 concerning Statewide Fur-bearing Animal and Trapping Proclamation. The emergency amendment prohibits the importation of live raccoons into this state. The Commission found imminent peril to the public health requires the prohibition.

The mid-Atlantic states are currently having a severe outbreak of rabies in raccoon populations which is thought to be the result of the introduction of raccoons from southern states (principally Florida and Georgia) by hunting clubs. This viral strain of rabies is somewhat host-specific to raccoons although "spillover" into other species has occurred. The raccoon viral strain of rabies is not found in this State. The introduction of the raccoon viral strain of rabies into Texas could adversely impact the raccoon population within this State and the associated costs for rabies control would be increased significantly.

The raccoon roundworm, which is believed to be rather widespread throughout the Midwest, can infect man, and two fatal cases in children (Illinois and Pennsylvania) have been documented. Although the incidence of this parasite in Texas is unknown, the risk of spreading this parasite to other captive furbearers or man is enhanced if raccoons are imported into this state.

The emergency amendment is adopted under Texas Parks and Wildlife Code, Chapter 71, which provides the Parks and Wildlife Commission with authority to regulate the taking, possession, propagation, transportation, exportation, importation, sale and offering for sale of fur-bearing animals, pelts, and carcasses as the Commission considers necessary to manage fur-bearing animals or to protect human health or property.

§65.376. General Rules.

(a) - (i) (No change.)

(j) IMPORTATION OF LIVE RACCOONS.

(1) NO PERSON MAY IMPORT INTO THIS STATE OR POSSESS AFTER IMPORTATION A LIVE RACCOON.

(2) THIS SECTION DOES NOT PROHIBIT A COMMON CARRIER FROM TRANSPORTING A LIVE RACCOON THROUGH THIS STATE.

Issued in Austin, Texas August 31, 1987. This emergency regulation is effective September 1, 1987 and will remain in effect until amended, repealed, or expires under its own terms. Please ADD this amendment to your Parks and Wildlife Regulation booklet after page 140.4 of the existing Fur-bearing Animal and Trapping Proclamation.

140.4.A

7-R-45044-08/19/87

Note: Adopted as a permanent rule by Texas
Parks and Wildlife Commission,
January 21, 1988.

shall be accounted for in a report from the U.S. Fish and Wildlife Service by January 30 following the year of handling. The report shall include the number of individual animals handled by species and county of take. More inclusive reports may be substituted in the event they duplicate the information required by this subsection.

(i) No person may possess a live skunk or civet cat without specific written authorization from the department.

§65.377. Open Seasons.

(a) No person may retain or possess a fur-bearing animal or the pelt of a fur-bearing animal except during the open season as provided in this section, or as specifically provided elsewhere.

(b) Open seasons are given by their opening and closing dates. All dates are inclusive.

(c) The open seasons are:

(1) Muskrat - November 15 of one year through March 15 of the following year.

(2) Nutria - January 1 through December 31.

(3) Beaver, otter, mink, ring-tailed cat, badger, skunk, fox, weasel, opossum, raccoon, and civet cat - December 1 of one year through January 31 of the following year.

(d) A person holding a fur-bearing animal propagation license may take fur-bearing animals alive only during the open season for the taking of fur-bearing animal species as provided in this section.

§65.378. Possession of Fur-bearing Animals or Their Pelts.

(a) Except as provided by this section, no person may possess the pelt of a fur-bearing animal at any time other than the open season as provided in §65.377 of this subchapter (relating to Open Seasons).

(b) No person other than licensed trappers, retail fur buyers, wholesale fur dealers or fur-bearing animal propagators may possess the pelt of a fur-bearing animal during the open season.

(c) No person other than the holder of a fur-bearing animal propagation license may possess a live fur-bearing animal at any time except as provided in the subchapter and such propagation license may be issued each license year only after holding facilities are examined by a representative of the department and are found to provide a freshwater supply at all times, sanitary bedding area, shelter from heat and inclement weather, and the following minimum space and height specifications are met for each animal confined.

<u>SPECIES</u>	<u>Minimum Specifications</u>	
	<u>Height (inches)</u>	<u>Space (sq. ft.)</u>
Badger	15	6-1/2
Beaver	20	7-1/2
Fox, Gray	18	6
Fox, Kit	15	5
Fox, Red	18	6
Fox, Swift	15	4-1/2
Mink	12	3-1/2
Muskrat	12	2-1/2
Nutria	15	5
Opossum	12	4-1/2
Otter, River	18	7
Raccoon	18	6
Ringtail	15	4
Skunk, Spotted (Civet)	12	3
Skunk, Other	15	4
Weasel	9	3

Minimum requirements shall be met for all fur-bearing animals held at any time except that young may be confined with their parents or with siblings until 120 days of age without meeting minimal floor space requirements for other than that necessary for one adult animal and animals may be confined for pelting purposes from 45 days prior to the open fur season until 20 days after the open season for each species without meeting minimum floor space requirements.

(d) The possession of more than one undried (green) pelt of a fur-bearing animal after the time specified by subsection (e) of this section by a licensed trapper, retail fur buyer, or fur-bearing animal propagator is a violation of this subchapter.

(e) The times are as follows:

(1) For undried (green) pelts of all fur-bearing animal except muskrat and nutria:

(A) February 5 of each year by licensed trappers;

(B) February 20 of each year by licensed retail fur buyers

and fur-bearing animal propagators.

(C) No time limitation for wholesale fur dealers.

(2) For undried (green) pelts of muskrat:

(A) March 20 of each year by licensed trappers;

(B) March 30 of each year by licensed retail fur buyers and

fur-bearing animal propagators.

(C) No time limitation for wholesale fur dealers.

(3) For nutria: no restrictions.

(4) For all fur-bearing animals, one (1) animal may be taken per day and one (1) carcass may be possessed outside of the open seasons specified in §65.377(c) of this title (relating to Open Seasons), except that no pelt or carcass of these species may be possessed under this paragraph during the 30 days preceding and the 30 days following the specified open seasons. Fur-bearing animals, pelts, and carcasses possessed under this paragraph may not be sold.

(5) Licensed trappers, retail buyers, and wholesale dealers may possess and market dried pelts year-round.

(f) Nothing in this subchapter shall prohibit a taxidermist from possessing for taxidermy purposes, a fur-bearing animal or the pelt of a fur-bearing animal lawfully taken or possessed under this subchapter provided the animal or pelt is labeled with the name and address of the owner of the animal or pelt.

(g) Live fur-bearing animals may be taken and possessed for three days or less by persons representing recognized furbearer associations or related service organizations for approved instructional or demonstration purposes in conjunction with scheduled meetings of the organizations provided prior written authorization for such take and possession has been issued by the department at its discretion based on the activities proposed. Fur-bearing animals thus possessed shall be released to the wild as directed by the department.

§65.379. Means and Methods.

(a) Only the following means and methods are legal for taking fur-bearing animals:

- (1) firearms;
- (2) steel leghold and conibear style traps;
- (3) falconry;
- (4) live or box trap;
- (5) dogs;
- (6) snare;
- (7) longbow and arrow;
- (8) electronic or hand-held calls; and
- (9) artificial light.

(b) Exceptions - No person may:

- (1) take river otter with firearms;
- (2) shoot at, take or attempt to take any fur-bearing animal from a boat on public waters of this state;
- (3) take fur-bearing animals by means of falconry, unless the person holds a valid falconry permit issued by the department;
- (4) possess a firearm or longbow and arrow or be accompanied by a person possessing a firearm or longbow and arrow while taking fur-bearing animals by means of falconry;

(5) take fur-bearing animals with steel leghold or conibear style traps, except during the open season provided by §65.377 of this title (relating to Open Seasons);

(6) take fur-bearing animals with steel leghold or conibear style traps within 400 yards of any school or conibear style traps with a diagonal opening dimension greater than 10 inches set on land or in less than six-inch deep water;

(7) use smoke, explosives or chemicals of any kind to kill or flush fur-bearing animals in the wild; and

(8) take fur-bearing animals with snares, steel leghold traps, conibear style traps, live or box traps unless such devices are examined and captured animals are removed every 36 hours.

§65.380. Sale or Purchase of Fur-bearing Animals or Their Pelts.

(a) No person other than licensed trappers, retail fur buyers, wholesale fur dealers, or fur-bearing animal propagators may sell fur-bearing animals or the pelts of fur-bearing animals, and no person other than licensed retail fur buyers, wholesale fur dealers or fur-bearing animal propagators may purchase fur-bearing animals or their pelts.

(b) The pelt of a fur-bearing animal may be purchased or sold only during those periods established by §65.377 of this subchapter (relating to Open Seasons) and §65.378 of this subchapter (relating to Possession of Fur-Bearing Animals or Their Pelts).

(c) Live fur-bearing animals may be sold only by a person who holds a valid fur-bearing animal propagation license, and such live animals may be sold only to persons authorized by permit issued under Texas Parks and Wildlife Code, Chapter 43, Subchapter C, or to another licensed fur-bearing animal propagator. Written authorization shall be obtained from the department prior to sale or export of live fur-bearing animals to persons outside of Texas. Requests for authorization shall include written documentation verifying that the recipient of live animals has complied with importation, transportation, and possession regulations applicable to the species in the destination state. A copy of the completed authorization shall accompany any live fur-bearing animal being exported or be attached to any container used to export live fur-bearing animals.

§65.381. Purchase/Sale Reports.

(a) A report on a form provided by the department must be completed and filed with the department by a person licensed as a retail fur buyer, wholesale fur dealer, or a fur-bearing animal propagator in accordance with this section.

(1) A person licensed as a retail fur buyer or wholesale fur dealer shall file the report on or before April 30 of each year.

(2) A person licensed as a fur-bearing animal propagator shall file the report required on or before August 31 of each year.

(b) Information for each license type shall include but not be limited to:

(1) Retail fur buyer - name and license number; total number and kinds of pelts purchased; and number and kinds of pelts sold.

(2) Wholesale fur dealer - name and license number; total number and kind of pelts purchased; and number and kinds of pelts sold.

(3) Fur-bearing animal propagator - number and kinds of animals possessed on date of report; number and kinds of live fur-bearing animals sold; license number or permit number to whom each live fur-bearing animal was sold; the number and kinds of pelts sold; and the license number, name and address to whom the pelt(s) were sold.

(c) A person licensed as a retail fur buyer, wholesale fur dealer or fur-bearing animal propagator shall not be eligible for renewal of the license unless the requirements in subsection (a) of this section have been met.

§65.382. Importation and Release of Fur-bearing Animals or Their Pelts.

(a) No person may import fur-bearing animals or their pelts into this state from another country without first obtaining necessary documentation for a declaration for importation of fish or wildlife as required by the United States Fish and Wildlife Service and the U.S. Customs Service.

(b) No person may import live fur-bearing animals into this state from another state or country unless a permit has been issued by the department for such importation and a copy of the completed permit accompanies any live fur-bearing animal being imported or is attached to any container used to import live fur-bearing animals. The Department's executive director is authorized to prescribe the necessary information and permit form which is required to import live fur-bearing animals.

(c) Imported live fur-bearing animals and live fur-bearing animals previously held in captivity may not be released into the wild without the written consent of the department. Animals released under provision of this subsection must be accounted for in a report filed with the department on or before the tenth day of the month following the month of release. The report shall list the species, number captured and released, date and location of capture, date and location of release, and name and address of person authorized to release.

§65.383-65.388. Reserved for future expansion.

§65.389. Penalty.

The penalties for a violation of this subchapter are prescribed by Texas Parks and Wildlife Code, §71.015 and 71.016.

This agency hereby certifies that the rules as adopted have been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

COMMISSION AGENDA ITEM

BRIEFING SESSION

STATEWIDE FUR-BEARING ANIMAL AND TRAPPING PROCLAMATION 1989-90

JANUARY 1989

I. DISCUSSION: The Parks and Wildlife Commission is delegated the responsibility to regulate the take, possession, propagation, transportation, exportation, importation, sale, and offering for sale of fur-bearing animals and their parts under authority of Chapter 71, Parks and Wildlife Code. The Commission is authorized to regulate by proclamation as considered necessary to manage fur-bearing animal resources or to protect human health or property. The staff has identified ^{two} ~~several~~ needed changes in the existing proclamation which are discussed below.

1. Clarify Take and Possession Outside Open Fur Season.

In 1983, Section 65.378(e)(4) was revised to establish a daily take and possession limit of one fur-bearing animal among the aggregate of 20 species outside the December-January open fur season. Subsequent field implementation of this regulation has identified confusing interpretations of the adopted language and questions regarding intent of the regulation.

2. Establish River Otter Tagging Requirements

Although the river otter is not biologically threatened or endangered, international commerce in otter pelts is subject to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) because^{of} similarity in appearance to endangered species elsewhere in the world. River otter have been subject to CITES since 1977, but Texas has not implemented a tagging program nor sought CITES export authorization, primarily because of low harvest volume and uncertainty about species response to changing harvest interest. Otters may be harvested annually under current Texas regulations but may only enter the domestic U.S. market legally and not accrue the value of Canadian and European fur markets. Otters harvested in 25 of 27 states with a current legal season are subject to CITES tagging. Unsolicited contact from other state furbearer staff, especially in Louisiana, indicated that untagged Texas otters pose difficulties in legal transport through their states and some Texas otter pelts may be presented there for tagging. Thus, current Texas otter harvest regulations potentially stimulate Lacey Act violations and may reduce the value of pelts legally harvested by Texas fur takers. Biological data from past department research are being compiled to obtain CITES export authorizations for river otter from Texas. Concurrent changes in regulations to establish a tagging program are necessary for federal review and approval of the program for the 1989-90 fur season and beyond.

Suggested proclamation changes that address these needs are shown with explanatory statements in Exhibit A.

II. PROPOSE^d STAFF APPROACH: The staff seeks guidance concerning these suggested regulation changes prior to publishing in the Texas Register proposed amendments to the Statewide Fur-bearing^{Animal} and Trapping Proclamation.

Attachments - 1

1. Exhibit A - Suggested Changes to
-- Fur-bearing Animal and Trapping
Proclamation

EXHIBIT A

SUGGESTED CHANGES TO
FUR-BEARING ANIMAL AND TRAPPING PROCLAMATION

1. Suggested deletions are [bracketed]
2. Suggested additions are underlined

, Tag, and Permit
§65.373. License Fees.

, tags, and permits

(a) The fees for licenses required for activities authorized by this subchapter are prescribed under the provisions of Texas Parks and Wildlife Code, Chapter 71, and are:

- (1) \$10.75 for a resident trapper's license;
- (2) \$200.75 for a nonresident trapper's license;
- (3) \$50.75 for a resident retail fur buyer's license;
- (4) \$200.75 for a nonresident retail fur buyer's license;
- (5) \$100.75 for a resident wholesale fur dealer's license;
- (6) \$400.75 for a nonresident wholesale fur dealer's license;

[and]

(7) \$50.75 for a fur-bearing animal propagation license; and ✓

(8) \$1.00 for a river otter pelt tag fee.

EXPLANATION: Reference to tags and permits is added to the general language to include the newly recommended tag fee and to acknowledge potential inclusion of permits at a future date as provided in the authority under Chapter 71, Parks and Wildlife Code. Inclusion of a new fee for the otter pelt tag is intended to defray department costs for implementing the tagging procedures outlined in Section 65.376.

65.376. General Rules.

(a)-(j) (No change.)

(k) River otter pelts taken in Texas during the specified open season shall be documented and tagged prior to interstate sale or transport outside of Texas as prescribed by the following:

(1) Licensed trappers must complete an otter pelt possession form prior to selling an otter pelt to a licensed retail fur buyer or wholesale fur dealer. Information on this form shall include, but not be limited to, licensed trapper's name, address and license number; county and date of harvest; sex of animal; and date of pelt sale. An otter pelt possession form must be completed for each otter pelt presented for sale.

(2) Licensed trappers or others possessing otter pelts legally taken during the specified open season may obtain a river otter pelt tag by contacting a specified department office, completing an otter pelt possession form and exchanging the form for a river otter pelt tag following payment of required tag fees.

(3) Retail fur buyers and wholesale fur dealers may possess only pelts tagged with a river otter pelt tag or accompanied by an otter pelt possession form completed by a licensed trapper. Documented proof of origin must be available for any untagged otter pelts legally obtained from another state or country.

(4) Retail fur buyers and wholesale fur dealers may

obtain river otter pelt tags by contacting a specified department office and exchanging completed otter pelt possession forms for an equal number of tags following payment of required tag fees.

(5) All license holders who transport or ship a tagged pelt outside of Texas shall report the destination of the pelt on a form prescribed by the department.

(6) Only pelts from otters taken during the specified open season may be tagged with otter pelt tags designated by the department for that year, and otter possession forms must be exchanged for tags within 10 days after the last day of the specified open season.

EXPLANATION: This new language provides the minimum procedure necessary to implement an otter tagging program that is consistent with CITES provisions (where the export tags always remain with department personnel). The procedures cover all anticipated licensee classes and users of otter pelts who are expected to have a need for tagging.

65.378. Possession of Fur-bearing Animals or Their Pelts.

(a) - (d) (No change.)

(e) (1) - (3) (No change.)

(e) (4) For all fur-bearing animals, only one (1) animal may be taken per day and only one (1) carcass and its associated pelt may be possessed at any one time outside of the open seasons specified in 65.377(c) of this title (relating to Open Seasons), except that no pelt or carcass of these species may be possessed under this paragraph during the 30 days preceding and the 30 days following the specified open seasons. Fur-bearing animals, pelts, and carcasses possessed under this paragraph may not be sold.

EXPLANATION: These changes further specify the intent that only one animal may be taken per day of all fur-bearing animal species in the aggregate and that only one carcass may be possessed as a result of this take provision. This provision applies outside the open fur season and provides for limited uses yearround consistent with fur animal resources and human recreational interests.